IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.Misc.No.17250-M of 2007

Date of Decision: 19.4.2007

Karamjit Kaur and others .....Petitioners

Versus

The State of Punjab .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.DS Kamra, Advocate
for the petitioners.

Mr.BS Sra, D.A.G. Punjab.

S.D.ANAND, J.

Concededly, the petitioners were found innocent in the police investigation. However, it was during the trial that an application for their summoning was filed by the prosecution under Section 319 of the Code of Criminal Procedure. The learned Trial Judge, drawing sustenance from the testimony on oath of the prosecutrix, directed their summoning. The accused so summoned have filed the present petition to challenge it.

Learned counsel for the petitioners argues that there was hardly any justification for the learned Trial Judge to order their summoning, particularly when the Medical Officer has recorded a finding, after the receipt of the report of the Chemical Examiner, that the person of the prosecutrix had not been violated.

The plea advocated on behalf of the petitioners is without any merit. The prosecutrix had attributed a precise incriminating role to the

petitioners not only in the course of her statement before the police but also before the Judicial Magistrate Ist Class. She re-iterated that attribution of role to the petitioners when she was examined at the trial. In the course of all these statements, the petitioners were accused for having been co-conspirators of the main accused. It was on the basis of the above statements that the learned Sessions Judge, in exercise of the jurisdiction under Section 319 of the Code of Criminal Procedure, ordered the summoning of the petitioners to face a trial. It cannot be said with any justification that the impugned order was passed by the Sessions Judge just for the heck of it.

In so far as the medical opinion is concerned, it is irrelevant to the present issue. The prosecutrix had been in the custody of the main accused for sufficient period of time. It is not the prosecution allegation that she had been raped immediately before she was got medically examined. There is, thus, nothing unnatural if the Medical Officer recorded the above mentioned opinion. In any case, the veracity or otherwise of the opinion would be tested at the trial.

It may be noticed that there is adequate material on the file that the prosecutrix was aged about 16-1/2 years at the relevant point of time.

For the reasons mentioned in the foregoing paras, the petition is held to be devoid of merit and is ordered to be dismissed.

(S. D. ANAND)
JUDGE

April 19, 2007
SRM